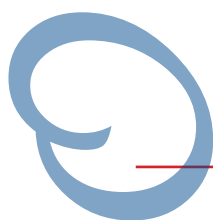




New South Wales



Office of the Inspector

of the Independent Commission
Against Corruption

Annual Report 2006 - 2007

24 October 2007

Mr Peter Primrose MLC
President
Legislative Council
Parliament House
Sydney NSW 2000

The Hon. Richard Torbay MP
Speaker
Legislative Assembly
Parliament House
Sydney NSW 2000


Dear Mr President & Mr Speaker,

In accordance with section 77B of the *Independent Commission Against Corruption Act 1988*, I, as the Inspector of the Independent Commission Against Corruption, hereby furnish to each of you for presentation to the Parliament the Annual Report of the Inspector for the year ended 30 June 2007.

The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* ("the Act").

Pursuant to section 78(1A) of the Act, I recommend that the report be made public forthwith.

Yours sincerely,



Graham Kelly
Inspector

ACKNOWLEDGEMENTS

I would like to place on record my appreciation of the considerable assistance I received during 2006–07 from:

- § The Commissioner of the Independent Commission Against Corruption, the Hon. Jerrold Cripps, QC, for his continuing cooperation and responsiveness; and
- § The staff of the Office of the Inspector of the ICAC for their support, in particular, Ms Seema Srivastava, Executive Officer, and Ms Vickie Jeffrey, Office Manager.

CONTENTS

PART 1: THE INSPECTOR'S ROLE AND FUNCTIONS

PRELIMINARY OBSERVATIONS	1
ROLE OF THE INSPECTOR	1
POWERS OF THE INSPECTOR	2
ANNUAL REPORT REQUIREMENTS	3
OTHER RELEVANT LEGISLATION	3
Freedom of Information Act 1989	3
Telecommunication (Interception) Act 1979 (Cth)	3

PART 2: THE OFFICE OF THE INSPECTOR OF THE ICAC

THE OFFICE	4
BUDGET	4
POLICIES	5
Policy concerning assistance to complainants	5
Handling complaints concerning conduct of ICAC officers whilst "off-duty"	5
Referred complaints	6
LIAISON BETWEEN THE INSPECTOR AND EXTERNAL ENTITIES	6
Liaison between the Inspector and his staff and the ICAC	6
Meetings between the Inspector and the Parliamentary Joint Committee	6
Other meetings undertaken by the Inspector	7
CONFERENCE PRESENTATION	8
WEBSITE	8

PART 3: REPORT ON INSPECTOR'S STATUTORY FUNCTIONS

AUDITING THE OPERATIONS OF THE COMMISSION (S 57B(1)(A))	9
Audit of the ICAC's compliance with s 12A of the ICAC Act	9
Audit of the ICAC's compliance with ss 21, 22, 23, 35 & 54 of the ICAC Act	10
Results of the s 57B(1)(a) audit	11

COMPLAINTS HANDLING FUNCTION (S 57B(1)(B) and (C))	11
Results at a glance–Complaints	12
Complaints received between 1 July 2005 and 30 June 2006 that were finalised in the current reporting period	12
Complaint received between 1 July 2005 and 30 June 2006 that is still active	17
Complaints received between 1 July 2006 and 30 June 2007 that were finalised in the current reporting period	17
Complaints received between 1 July 2006 and 30 June 2007 that are still active	22
Complaints received between 1 July 2006 and 30 June 2007 that were not assessed	23
GENERAL ENQUIRIES AND OTHER CORRESPONDENCE	24
ASSESSMENT OF PROCEDURES (S 57B(1)(D))	24

PART 1: THE INSPECTOR'S ROLE AND FUNCTIONS

PRELIMINARY OBSERVATIONS

This is my second Annual Report to Parliament as the Inspector of the Independent Commission Against Corruption ("the ICAC" or "the Commission") pursuant to s 78(1A) of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act" or "the Act"). I recommend that the report be made public forthwith.

The second operating year has seen a continuation in the volume and type of complaints to my office, the Office of the Inspector of the ICAC ("the Office" or "the OIICAC"), as was experienced during the first year following my appointment on 1 July 2005. On average I continue to receive approximately three new complaints per month. The bulk of complaints allege maladministration on the part of the ICAC during the assessment process. The majority of these complaints allege that the ICAC has been unreasonable or unjust in its handling of complaints during the assessment process. Very few of the complaints allege abuse of the ICAC's coercive powers.

My overwhelming impression is that the Commission performs its functions satisfactorily in very difficult circumstances. It receives a very large number of complaints, many of which do not allege anything approaching what might be properly characterised as "serious or systemic corrupt conduct" on the part of the NSW public sector. The Commission generally handles these complaints fairly and assesses them appropriately. Most of the complaints to the Office are made by persons who allege that the ICAC improperly failed or refused to investigate complaints that they made to it. I am pleased to report that only a small proportion of the complaints to the ICAC that I have reviewed have exhibited any material imperfections in their handling by the ICAC. When deficiencies in process have come to light I have been satisfied with the Commission's response.

I am also pleased to note that other aspects of the Commission's operations also suggests improvement over the time that I have been reviewing its performance. For example, in 2005–06 I noted a fairly high staff turnover rate, particularly in the assessments area. The staff turnover rate now seems to have stabilised significantly in recent times.

There were changes in the staffing of the Office in 2006–07. The Executive Officer was on full-time maternity leave for a short period and on part-time maternity leave thereafter. During this period a number of short-term employees worked at the Office in both professional and administrative capacities. This supported continuity of the Office's workload.

ROLE OF THE INSPECTOR

The Inspector's role and functions are prescribed under Part 5A of the ICAC Act.

The Inspector's role is generally modelled on that of the Inspector of the Police Integrity Commission. Under s 57A of the Act the Inspector is appointed by the

Governor. The Parliamentary Joint Committee on the Independent Commission Against Corruption ("the Parliamentary Joint Committee" or "the Committee") is empowered to veto the proposed appointment, which is required to be referred to the Committee by the Minister.¹

Section 57B sets out the principal functions of the Inspector. These are to:

- o *audit the operations of the Commission for the purpose of monitoring compliance with the law of the State, and*
- o *deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission, and*
- o *deal with (by reports and recommendations) conduct amounting to maladministration (including without limitation, delay in the conduct of an investigation and unreasonable invasions of privacy) by the Commission or officers of the Commission, and*
- o *assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality and propriety of its activities.*

The definition of maladministration is set out under s 57B of the ICAC Act as follows:

... action or inaction of a serious nature that is:

- (a) contrary to law, or*
- (b) unreasonable, unjust, oppressive or improperly discriminatory, or*
- (c) based wholly or partly on improper motives.*

Section 57B(2) enables the Inspector to exercise the prescribed statutory functions on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to the Inspector, or in response to a reference by the Parliamentary Joint Committee or any public authority or public official. The Inspector is not subject to the Commission in any respect.

"The Minister" referred to under s 57B(2) is the Premier of New South Wales.

Under s 77A of the Act the Inspector may make a special report on any matters affecting the Commission or on any administrative or general policy matter relating to the functions of the Inspector. Under s 77B of the ICAC Act the Inspector is required to report annually to Parliament. Both of these reports are to be made to the Presiding Officer of each House of Parliament.

POWERS OF THE INSPECTOR

Section 57C of the ICAC Act establishes the powers of the Inspector. The Inspector has extensive powers to investigate any aspect of the Commission's operations or any conduct of any officers of the Commission. The Inspector is

¹ *Independent Commission Against Corruption Act 1988*, Schedule 1A, cl 10.

empowered to make or hold inquiries in order to carry out his functions and for that purpose has the powers, authorities, protections and immunities of a Royal Commissioner. There were no formal inquiries held during 2006–07.

ANNUAL REPORTING REQUIREMENTS

The Inspector is neither a Department nor a Department Head for the purposes of the *Annual Reports (Departments) Act 1985*. The requirements placed by that Act on those bodies therefore do not apply to the preparation of an annual report by the Inspector.

Similarly, the provisions of the *Annual Reports (Statutory Bodies) Act 1984* do not apply since the Inspector is not a person, group of persons or body to whom Division 3 of Part 3 of the *Public Finance and Audit Act 1983* applies; nor is the Inspector or the Office prescribed as a statutory body by the *Annual Reports (Statutory Bodies) Act 1984*. As noted, however, earlier in this report, s 77B of the ICAC Act requires the Inspector to report annually to Parliament.

OTHER RELEVANT LEGISLATION

Freedom of Information Act 1989

Under Schedule 2 of the *Freedom of Information Act 1989* (“the FOI Act”) the Inspector is exempt from the provisions of the FOI Act in respect of operational auditing, complaint handling and investigative and reporting functions. No FOI applications have been received to date.

Telecommunication (Interception) Act 1979 (Cth)

The *Telecommunications (Interception) Legislation Amendment (Stored Communications and Other Measures) Act 2005* (Cth) (“the TIA Act”), which included the Inspector of the ICAC as an “eligible authority”, was given Royal Assent on 14 December 2005.

In accordance with ss 96(1) and 159(1) of the TIA Act, the Commonwealth Attorney-General’s Department was advised that there was nil usage of the provisions of the TIA Act by the Inspector during the current reporting period.

PART 2: THE OFFICE OF THE INSPECTOR OF THE ICAC

THE OFFICE

The Office is located at Redfern. The postal address for the Office is GPO Box 5341, Sydney, NSW, 2001. The telephone number for the Office is (02) 8374 5381; the facsimile number is (02) 8374 5382. The email address is InspectorICAC@oiicac.nsw.gov.au.

The Office's staffing consists of two permanent full-time positions. These are the Executive Officer and the Office Manager. The Executive Officer commenced employment in November 2005. The Office Manager commenced employment in May 2006.

During 2006–07 three professional staff worked at the Office on a short-term basis undertaking complaint management and audit duties. Two staff worked at the Office on a short-term basis providing administrative support. Administrative personnel were employed on a part-time basis. Difficulties experienced in retaining these staff were due to factors such as other employment opportunities, the nature of the work, the small size of the agency and the Office's location including the occurrence of adverse safety incidents. The staff turnover experienced in 2006–07 has shown that working at the OIICAC poses unique challenges that need to be addressed in any future recruitment process.

BUDGET

The Office is an independent agency with its own budget. Staff report exclusively to the Inspector. An administrative arrangement exists, however, with the Department of Premier and Cabinet ("the DPC") whereby the DPC provides, on a fee-for-service basis, a range of support services such as information technology, payroll and general human resources support. This arrangement is effective in enabling the Office to have a range of necessary corporate services without having to establish a separate and costly administrative infrastructure.

In 2006–07 the total revised budget for the Office was \$636,730. Of that, \$501,361 was allocated to employee-related expenses. Year-to-date actual expenditure was \$450,120.

The under expenditure of the budget was primarily attributable to the Office not filling an additional professional position (for which additional funding was provided) on an ongoing basis in 2006–07. In any event, given that the additional funding was only approved in September 2006 the budget would have been underspent due to the lag time in starting a person in the identified position.

POLICIES

Policy concerning assistance to complainants

(This policy has been revised since it was last reported in the previous Annual Report.)

The Inspector prefers to receive complaints in writing. However, complaints made via other forms of communication, for example, telephone and email are accepted.

Where a complainant requires assistance (such as an interpreter or a face-to-face meeting) to provide particulars of a complaint, assistance will be provided by the Office. There will be an initial limit of two hours assistance. An assessment will be made at the end of the two-hour period, where a complaint is within jurisdiction, as to whether further assistance is required. Where it is deemed appropriate further assistance will be provided.

Background to the policy

The policy was developed to ensure that the Office's limited human resources were not disproportionately absorbed in managing the higher than anticipated volume of complaints and were able to support the Inspector's other statutory functions. Experience showed that it was generally possible to identify sufficient particulars of a complaint within a two-hour period and/or assess at the expiry of this period what, if any, further assistance should be provided.

Handling complaints concerning conduct of ICAC officers whilst "off-duty"

Complaints concerning alleged misconduct of ICAC officers when they are "on-duty" will be investigated by the Inspector where the assessment of the complaint merits such investigation.

Complaints concerning alleged misconduct of ICAC officers when they are "off-duty" will be referred to the Solicitor to the ICAC for appropriate action. The Solicitor to the ICAC will be requested to advise on the outcome of the assessment and any subsequent investigation of the complaint.

Background to the policy

This policy reflects the Inspector's view that the primary legislative intent of the ICAC Act as far as the role of the Inspector is concerned is to examine the conduct of ICAC officers whilst undertaking their professional duties. Given that ICAC has an established mechanism for dealing with complaints against its officers for general unsatisfactory conduct that may not be related to their work, the policy ensures efficient use of public resources. Under the ICAC's Policy 64, "Unsatisfactory Performance, Misconduct & Serious Offences", the Solicitor to the Commission can investigate allegations of misconduct by ICAC officers that may breach the ICAC Code of Conduct.

Referred complaints

Where a complaint has been referred to the Inspector by a third party, for example, a member of parliament on behalf of a complainant, the Inspector will write to the complainant advising that a referral has occurred. The Inspector invites the complainant to advise as to whether s/he is agreeable to the Inspector dealing with the complaint. The complainant is advised that, as a general rule, the Inspector will respect the complainant's wishes on the issue but may exercise his discretion to deal with the complaint in accordance with s 57B(2) of the ICAC Act, contrary to a complainant's wishes, where the Inspector forms the view that there are sound reasons to do so.

Background to the policy

The policy was developed as a result of an internal review of referred complaints. It aims to ensure that the Inspector's decision to deal with a referred complaint takes into account a complainant's view.

LIAISON BETWEEN THE INSPECTOR AND EXTERNAL ENTITIES

Liaison between the Inspector and his staff and the ICAC

A Memorandum of Understanding ("MOU") executed by the Inspector and the Commissioner of the ICAC establishes the framework for communication and liaison. In accordance with the MOU, during 2006–07 the Inspector and the Commissioner have held regular meetings, approximately once a month. Key issues discussed at these meetings include complaints, audit projects, hearings and investigations being undertaken by the ICAC, and general management and operational issues affecting the ICAC's performance. Under the MOU the Executive Officer liaises with the Deputy Commissioner as required in relation to matters arising out of the Inspector's statutory functions.

Clause 6.1 of the MOU provides that the MOU may be reviewed at any time at the request of either the ICAC or the Inspector, or at the end of 12 months from the date of execution of the MOU. The current MOU, executed in October 2006, was substantively amended in two respects from the previous year's MOU. The first amendment provided for the Commissioner to be notified when any of the ICAC's Executive Directors were requested by the OIICAC to attend for an interview in relation to a complaint. The second amendment provided that the ICAC would appropriately raise awareness about the Inspector's role and functions.

The MOU is due to be reviewed in September 2007 and proposed to be executed in October 2007 at a meeting between the Inspector and the Commissioner.

Meetings between the Inspector and the Parliamentary Joint Committee

The Inspector and the Parliamentary Joint Committee met on two dates during 2006–07: 4 August 2006 and 20 September 2006.

The issues discussed at these meetings are listed below.

August 2006

- § OIICAC staffing and workload
- § The number and types of complaints received
- § An audit of the ICAC's compliance with s 12A of the ICAC Act
- § Analysis of ICAC staff turnover
- § OIICAC policies
- § The OIICAC business plan for 2006–07
- § Legislative amendments to the ICAC Act, for example, s 57G
- § Follow up on the recommendations contained in the Parliamentary Joint Committee: Report No. 5/53 December 2005
- § Complaints from persons of ethnic backgrounds to the ICAC
- § Liaison and communication between the OIICAC and the ICAC

September 2006

- § The number and types of complaints received
- § Audit projects
- § OIICAC budget and staffing
- § The Memorandum of Understanding between the OIICAC and the ICAC
- § Use of the Inspector's website
- § OIICAC business plan for 2006–07

The transcripts of the meetings are available from Ms Helen Minnican, Committee Manager, Parliamentary Joint Committee on the ICAC. Ms Minnican's email address is icac@parliament.nsw.gov.au.

Other meetings undertaken by the Inspector

During 2006–07 the Inspector and his staff met with the person/s and bodies referred to below.

Chinese Supreme People's Procuratorate, 28 March 2007

The Inspector and a temporary staff member, employed in the capacity of Legal Officer, met with a delegation from the Chinese Supreme People's Procuratorate that was on an anti-corruption study visit coordinated by the Australian Human Rights and Equal Opportunity Commission. The delegation's objective was to gain an understanding of how Australian laws, agencies, policies and practices operate to combat corruption consistent with the protection and promotion of human rights. The Inspector provided an overview of his role and functions.

Queensland Parliamentary Crime and Misconduct Committee, 29 May 2007

The Inspector and the Office Manager met with members of the Parliamentary Crime and Misconduct Committee ("the PCMC"). The PCMC was in Sydney to meet with senior officers of a number of NSW agencies that have a similar role to Queensland's Crime and Misconduct Commission. The PCMC also took the opportunity to meet with the oversight bodies that monitor and review those agencies. The Inspector provided an overview of his role and functions.

The Department of Premier and Cabinet, 13 June 2007

The Inspector and Executive Officer met with the newly appointed Director-General of the Department of Premier and Cabinet, Ms Robyn Kruk, and her Chief of Staff, Ms Jeannette Evans.

CONFERENCE PRESENTATION

On 2 November 2006 the Inspector spoke at the 6th National Investigations Symposium held at Manly, New South Wales, on the topic of "Improving the Effectiveness of Integrity Agencies". A copy of the speech can be accessed at Inspector's website.

WEBSITE

The OIICAC website, www.oiiac.nsw.gov.au, provides details about the Inspector's role and function, as well as information about how to lodge a complaint and how any such complaint will be managed by the OIICAC. The website also provides a link to websites of the following agencies and services:

- § ICAC
- § Parliamentary Joint Committee on the ICAC
- § NSW Ombudsman
- § Police Integrity Commission (which has details of the Inspector of the Police Integrity Commission)
- § LawAccess
- § Privacy NSW (Office of the Privacy Commissioner)
- § Department of the Premier and Cabinet.

The total number of visits² to the OIICAC website during the reporting period was 5,452. This is a significant increase from the previous year in which there were 643 visits.

The total number of hits³ to the OIICAC website during the reporting period was 35,350. This is a significant increase from the previous year in which there were 8,894 hits.

² Visits refer to the total number of visits made to a site for a period.

³ Hits refer to the total number of files/pages/graphics requested from the server on that site.

PART 3: REPORT ON INSPECTOR'S STATUTORY FUNCTIONS

AUDITING THE OPERATIONS OF THE COMMISSION (S 57B(1)(A))

Audit of the ICAC's compliance with s 12A of the ICAC Act

In 2005–06 the Office commenced an audit of the ICAC's compliance with s 12A of the ICAC Act, which requires the ICAC to

direct its attention to serious and systemic corrupt conduct and is to take into account the responsibility and role other public authorities and public officials have in the prevention of corrupt conduct.

The draft audit report identified issues with five of the complaints audited. The key issues emerging from these five complaints were:

- § In one complaint the standard of evidence required to be provided by the complainant appeared too onerous.
- § In another complaint the ICAC appeared not to have followed up on basic inquiries that could have easily established whether the facts alleged by a complainant were true or not.
- § Some referrals by the ICAC, pursuant to s 19 of the ICAC Act, were "for information only" and did not provide any context or guidance to the public official or public agency to which the complaint was referred about the complaint. This approach potentially risked lack of adequate response to the complaint by the agency.

The Commission responded in writing to the issues raised in writing in November and December 2006. The Commission's responses were taken into account in finalising the audit report.

The final report of this audit found that:

In 98% of the files audited the ICAC assessment process complied with s 12A of the ICAC Act in that complaints which did not concern serious or systemic corrupt conduct were not investigated. The ICAC did, however, mislead the Operations Review Committee on one occasion, in a material particular. Greater care needs to be taken to avoid any misleading statements in Assessment reports in the future.

The following recommendation was made:

It is recommended that the ICAC develop a policy to ensure that appropriate information and context is provided to public agencies and officials where referrals are made under s 19. For example such information could include:

- § Any inquiries made by the ICAC;
- § The reasons why the ICAC did not investigate; and

- § The likelihood of serious and or systemic corrupt conduct existing if the allegations were substantiated.

This will enable agencies and officials to make an informed decision about whether or not to investigate a matter referred under s 19.

The audit report was presented by the Inspector to the Presiding Officers of each House of Parliament on 28 June 2007 and was tabled in the Parliament on that day.

Audit of the ICAC's compliance with ss 21, 22, 23, 35 and 54 of the ICAC Act

In 2006–07 the Office audited the Commission's compliance with ss 21, 22, 23, 35 and 54 of the ICAC Act. In summary these provisions enable the ICAC to exercise powers that, in effect, compel another person or agency to cooperate with the ICAC. These powers are listed below.

Part 4, Division 2—Investigations

- § Power to obtain information—s 21
- § Power to obtain documents—s 22
- § Power to enter public premises—s 23

Part 4, Division 3—Compulsory examinations and public inquiries

- § Power to summon witnesses and take evidence—s 35
- § Power to compel witnesses to give evidence on oath and produce any document or thing before the Commission—s 37
- § Power to require attendance of a prisoner before the Commission—s 39

Part 5—Referral

- § Power to require an authority, where a matter has been referred to it, to submit a report to the Commission including the action taken by the Commission—s 54(1), (2) and (3)
- § Power to compel an authority to comply with the requirements and recommendations of the Commission—s 56

The audit also examined whether principles of natural justice and procedural fairness that apply in the circumstances were adhered to.

A sample of 115 of the Commission's notices and summonses issued in the period between 1 July 2003 and 30 June 2006 were examined. Minutes and other supporting documentation attached to draft notices and summons, provided by ICAC staff to management for approval, were also examined in order to assess the ICAC's justification for the issue of each process. Relevant ICAC policies and procedures governing the exercise of its compulsory powers were examined to assess the extent to which they supported compliance with the law.

Results of the s 57B(1)(a) audit

The audit showed that the ICAC complied with the legal requirements of each of the relevant provisions in the ICAC Act. For example, where a provision required that a notice be given in writing with a date and time specified, the sample of notices audited showed that such requirements were complied with. Minutes and other documentation attached to the notices and summonses audited also showed that the ICAC had considered issues of natural justice and procedural fairness when deciding to issue process.

While there were no substantive issues of concern the audit revealed a lack of proper record-keeping by the ICAC. Records concerning service of some of the notices were missing from the file, and other records such as notices, summonses and minutes could not be located on file. The Inspector's staff advised the ICAC that it could not properly conduct a complete audit on the identified sample due to a lack of complete records being available.

In response the Acting Solicitor to the Commission advised that it would require considerable effort to locate all documents requested. On further consideration of the issue the Commission was not required to locate the missing documents given that, in instances where all records were able to be located, the evidence suggested that the Commission had complied with the law in the exercise of its compulsory powers.

The audit report indicated that it would have been preferable to have inspected all relevant records and drew attention to the lack of completeness of the ICAC's records.

The audit report was presented by the Inspector to the Presiding Officers of each House of Parliament on 28 June 2007 and was tabled in the Parliament on that day.

COMPLAINTS HANDLING FUNCTION (S 57B(1)(B) AND (C))

Between 1 July 2006 and 30 June 2007, 37 complaints were received about the conduct of the ICAC and/or its officers. All complaints were dealt with by the OIICAC using administrative procedures and OIICAC policies and by the Inspector exercising his powers pursuant to ss 57B and 57C. The Inspector did not exercise his powers pursuant to s 57D of the Act to make or hold inquiries as a Royal Commissioner.

Further statistical detail on management of complaints during the reporting period is provided in the table below. A comparison with the previous reporting period is also provided.

The overwhelming majority of complaints concern the conduct of the ICAC in assessing complaints that it has declined to investigate. The main ground of complaint was alleged failure by the ICAC or its officers to properly assess evidence concerning alleged serious or systemic corrupt conduct.

Results at a glance—Complaints

Complaints	2006–07	2005–06
Complaints received	37	35
Complaints not warranting investigation	29	21
Complaints referred back to the ICAC	8	3
Complaints concerning off-duty conduct by ICAC officers	1	0
Complaints still active as at 30 June 2007	7	11
Complaints not assessed	4	*
Complaints finalised within 6 months	31	19
Average time taken to finalise complaint (months)	2.3	4.6
Complaints received by mail	21	6
Complaints received by email	9	14
Complaints received by facsimile	3	1
Complaints received by telephone	16	9
Complaints referred to the Inspector by a third party	3	5
General enquiries received	12	7

* This category was not reported on in the previous annual report.

Complaints received between 1 July 2005 and 30 June 2006 that were finalised in the current reporting period

Complaints determined as not warranting investigation

1. In July 2005 a complaint was received by telephone alleging corrupt conduct by named former officers of the ICAC in relation to its management of a complaint against certain public officials. The complainant alleged that the named ICAC officers had a vested interest in not investigating the complaint because of personal bias. Several of the allegations made by the complainant required clarification and further particulars. An exchange of correspondence occurred during the second half of 2005 between the Inspector and the complainant on these issues. In June 2006 the Inspector wrote to the complainant repeating a request for particulars. In September 2006 the Inspector advised the complainant that due to particulars not being provided the complaint could not be assessed.
2. In July 2005 a complaint was received by email alleging maladministration by the ICAC in relation to its handling of a complaint concerning a named local government council. The complainant alleged that the ICAC had been unreasonable in not fully assessing the evidence that the complainant had provided. The complaint required detailed assessment of the available evidence including clarification on some issues from the ICAC and the complainant. Subsequent inquiries made by the OIICAC revealed that the ICAC had made an incorrect statement with regard to the facts. The

incorrect statement was assessed as having had no bearing on the reasonableness of the ICAC's management of the complaint. The Inspector was satisfied with the explanation given by the ICAC as to how it came to make the incorrect statement. The assessment also showed no failure by the ICAC to properly assess available evidence. The Inspector determined that as there was no evidence to support the allegations, the complaint would not be investigated, and in July 2006 he advised the complainant accordingly.

3. In July 2005 a complaint was received by email alleging maladministration by the ICAC in relation to its handling of a complaint concerning a named local government council. The complainant alleged the ICAC had been unreasonable in not properly assessing evidence relevant to the allegations made in the complaint. In June 2006 the Office was advised by the complainant that he was withdrawing his complaint against the ICAC and pursuing redress through the legal system. In August 2006 the complainant wrote to the Inspector requesting that the Inspector deal with a range of issues that formed part of his original complaint to the ICAC. The Inspector assessed that the complaint in its current form was not within his jurisdiction as it raised no issues concerning the conduct of the ICAC or its officers, it would not be investigated. In September 2006 the Inspector advised the complainant accordingly.
4. In February 2006 a complaint was received by mail alleging maladministration by the ICAC and its officers with respect to its handling of a complaint concerning a named government agency and a named public official. The complainant alleged that the ICAC had been unreasonable in its assessment of the relevant evidence and also had been unjust in its handling of the complaint. No evidence was found to support the complainant's allegations that the ICAC or its officers had been unreasonable in assessing the relevant evidence. The Inspector therefore determined that the complaint would not be investigated and in August 2006 advised the complainant accordingly.
5. In March 2006 a complaint was received by telephone alleging misconduct by a named ICAC officer. The complainant was requested in late March 2006 to provide particulars of his complaint. The bulk of the allegations concerned a period prior to the named officer commencing employment at the ICAC. Only one of the allegations concerned conduct that occurred whilst the named officer was employed at the ICAC. In December 2006 the Inspector advised the complainant that, with one exception, the conduct alleged was not within jurisdiction and would not be investigated. In respect of the one allegation that was within jurisdiction, the Inspector advised that such conduct had been assessed as not constituting corrupt conduct and therefore the complaint would not be investigated.
6. In May 2006 a complaint was received by email alleging dishonest conduct by a named ICAC officer. The complainant alleged that the named officer made statements contradictory to what he was told by another named ICAC officer and such statements showed that the named ICAC officer was lying. The complainant also alleged that the ICAC's handling of his

complaint showed a disregard for the objectives of the *Protected Disclosures Act 1994* and posed a disincentive to complainants wishing to make protected disclosures.

In August 2006 correspondence was exchanged between the Inspector and the Commissioner on a number of factual issues raised by the complainant. As a result of this correspondence the Inspector determined that there was no evidence to support the complainant's allegations that false statements had been made by the named ICAC officer as alleged. The Inspector therefore determined that the complaint would not be investigated and in September 2006 advised the complainant accordingly. The Inspector also clarified a misunderstanding that the complainant appeared to have concerning the ICAC's role in the prosecution of persons that it had found to have engaged in corrupt conduct.

Complaints referred back to the ICAC

1. In July 2005 a complaint was received by email alleging maladministration by the ICAC in its handling of a complaint concerning a named local government council. The complainant alleged that the ICAC had failed to properly consider certain evidence that he had provided to it. There was an exchange of correspondence and emails between the Office and the complainant to clarify particulars of the complaint. The Inspector assessed the complaint and determined that it should be investigated

In July 2006 the Inspector wrote to the Commissioner and recommended the ICAC review its management of the complaint as it appeared that the ICAC had not examined certain relevant evidence. In August 2006 the Commissioner advised that the ICAC would reassess the complaint in light of the issues the Inspector had raised. The Commission subsequently advised the Inspector that it had reassessed the complaint including assessing the certain relevant evidence that it had not previously taken into account. The Commissioner advised that the reassessment found that there was insufficient evidence to support the complainant's allegation that the named local government council had acted corruptly. In September 2006 the Inspector advised the complainant that he was satisfied with the action taken by the ICAC and that he did not propose to deal with the complaint any further.

2. In August 2005 a complaint was received by email alleging maladministration by the ICAC and its officers in relation to its handling of a complaint concerning a named government agency. The complainant alleged that the ICAC's conduct with regards to assessing the complaint was unreasonable in that certain evidence had not been assessed. The complainant also alleged that the ICAC failed to conduct proper vetting of a former ICAC employee whom the complainant alleged had been the subject of adverse findings by another statutory body. The complaint was assessed and the Inspector determined that, whilst there was no evidence that the assessment of the complaint had been unreasonable with regards to assessment of evidence, there were issues concerning the ICAC's vetting procedures that merited investigation.

In July 2006 the Inspector wrote to the Commissioner recommending that the ICAC review its probity vetting procedures as part of good record-keeping and accountability. In July 2006 the Commissioner orally advised the Inspector that the recommendation would be considered in any review of the ICAC's vetting procedures.

3. In January 2006 a complaint was received by telephone alleging possible corrupt conduct by a named ICAC officer in relation to an ICAC recruitment process. It was alleged that a certain applicant had been given favourable treatment in the selection process due to personal connections with the named ICAC officer. The complaint was assessed as warranting investigation. In November 2006 the Inspector advised the Commissioner that the allegations made against the named ICAC officer had not been substantiated. However, the Inspector recommended that the ICAC provide training to its staff about what a reasonable apprehension of bias meant as this was a relevant issue which did not appear to have been considered or understood by staff during the recruitment process. The Inspector also recommended that the ICAC clarify its position on the eligibility of partners of existing staff to apply for employment opportunities at the ICAC.
4. In August 2005 a complaint was received by mail alleging maladministration and possible corrupt conduct by the ICAC in relation to its handling of a complaint concerning a named government agency. The complainant alleged that the ICAC had been unreasonable in not properly considering allegations of bias. The complainant also alleged that an ICAC officer may have improperly influenced the Commission's decision not to investigate the complaint. In August 2006 the Inspector wrote to the Commissioner recommending that the ICAC review its management of the complaint as it appeared that its assessment failed to consider key issues relevant to a potential finding that serious corrupt conduct may have occurred. In August 2006 the Commissioner advised the Inspector in writing that he was satisfied that the complaint had been properly assessed by the ICAC. The Commissioner's letter set out the reasons for his view.
5. In December 2005 a written complaint was received alleging that ICAC officers had been unreasonable in failing to review certain evidence supplied by the complainant. The complainant also alleged the ICAC had been wrong in subsequently concluding that there was insufficient evidence to justify investigating his allegations of corrupt conduct by a named public officer. The Inspector assessed the complaint and determined that it should be investigated.

On 30 June 2006 the Inspector wrote to the Commission advising of his concerns about the ICAC's failure to assess key relevant evidence. The Inspector recommended that the ICAC assess the relevant evidence. The Inspector also recommended that the Commission develop an explicit policy for staff about the standard of effort required to access evidence that might, at first instance, prove difficult to access. The Commissioner subsequently advised that he accepted that the Commission may not have properly assessed the complaint and advised that the Deputy

Commissioner had now assessed the evidence in question. The Commissioner further advised that he accepted the Deputy Commissioner's advice that the evidence did not disclose any evidence of corrupt conduct. The Commissioner also advised that he accepted the Deputy Commissioner's view that there was no need for an explicit policy about the standard of effort that should be made to access evidence that may be difficult to access in the first instance. The Commissioner further advised that the issue could be adequately addressed during the induction of new ICAC officers.

6. In March 2006 a complaint was received by facsimile alleging maladministration by the ICAC with respect to a complaint made to it concerning the conduct of councillors in a named local government council election. The complainant alleged that the Commission's conduct had been unreasonable in failing to take relevant evidence into account, including failing to speak to key witnesses. The Inspector assessed the complaint and determined that it should be investigated.

In June 2006 the Inspector wrote to the ICAC advising of his concerns regarding the adequacy of the assessment that had been undertaken, including the failure to make certain inquiries and accurately advise the Assessment Panel and the Operations Review Committee on relevant issues. The Inspector recommended that certain witness be interviewed by the ICAC and that the Commission also consider the adequacy of its procedures for reporting to the Assessment Panel and the Operations Review Committee.

In July 2006 the Commissioner responded advising that the Solicitor to the Commission had reviewed the Inspector's report and recommended that only one witness should be interviewed and that the ICAC's reporting procedures should be looked at as part of the Commission's general review of its complaint assessment procedures. The Commissioner advised he had accepted these recommendations.

On 26 September 2006 the Commissioner advised that the Commission had interviewed four witnesses and that the evidence provided by these witnesses had led the ICAC to form the view that the complaint did not merit investigation. On 17 October 2006 the Inspector advised the complainant that he was satisfied about the action taken by the Commission and did not propose to deal with the complaint any further.

"Off-duty" conduct referred back to the ICAC

1. In May 2006 a complaint was referred to the Inspector alleging misconduct by an ICAC officer whilst off-duty. In June 2006 the Inspector referred the complaint to the ICAC for appropriate action and requested the ICAC's advice on the outcome. In November 2006 the Solicitor to the Commission wrote to the Inspector advising that his inquiries indicated that the evidence did not substantiate the allegations made by the complainant.

Complaint received between 1 July 2005 and 30 June 2006 that is still active

1. In December 2005 the Parliamentary Joint Committee referred a complaint that it had received concerning the conduct of ICAC officers during the course of an ICAC investigation against a named public official. The complaint was assessed as warranting investigation. Investigation of the complaint has required intensive resource allocation. Approximately 910 hours has been spent on investigating the complaint including interviewing 17 witnesses. Senior Counsel provided advice on key legal questions. As of 30 June 2007 a draft report was being written. The complainant and the Parliamentary Joint Committee have been advised about the progress of the complaint. At the time of writing this report it is expected that the draft report will be completed by November 2007.

Complaints received between 1 July 2006 and 30 June 2007 that were finalised in the current reporting period

Complaints determined as not warranting investigation

1. In July 2006 a complaint was received by telephone alleging maladministration by the ICAC with respect to its assessment of a complaint concerning alleged corrupt conduct by a named public agency. The complainant alleged the ICAC failed to take relevant issues into account when assessing the complaint. There was no evidence to support the allegations made against the ICAC or its officers. The Inspector therefore determined not to investigate the complaint and in September 2006 advised the complainant accordingly.
2. In July 2006 a complaint was received by telephone alleging maladministration on the part of the ICAC and its officers concerning a complaint made to it about a named local government council. The complainant alleged the ICAC failed to make proper inquiries during the assessment process that would have uncovered key evidence showing that officers of the named council had engaged in corrupt conduct. The complainant also alleged that the ICAC's decision not to investigate the complaint was improperly motivated. Further particulars of the complaint were sent by the complainant in October 2006. An assessment of the complaint showed that there was no evidence to support the allegations made against the ICAC or its officers. The Inspector determined that the complaint would not be investigated and in January 2007 advised the complainant accordingly.
3. In August 2006 a complaint was received in writing alleging maladministration by the ICAC in relation to its handling of a complaint made to it concerning fraud at a named public university. In October 2006 the complainant was requested to provide particulars of the complaint. No response was received. In January 2007 the complainant was advised that in the absence of any particulars the complaint could not be assessed.
4. In August 2006 a complaint was received by telephone alleging maladministration against a named ICAC officer alleging that the officer had failed to properly consider evidence concerning a complaint during the

assessment of a complaint made to the ICAC. An assessment of the complaint found that there was no evidence to support the allegation against the named officer. The Inspector determined that the complaint would not be investigated and in September 2006 advised the complainant accordingly.

5. In October 2006 a written complaint was received alleging corrupt conduct by the ICAC for failing to investigate a complaint made to it. The complainant alleged that the ICAC acted corruptly in trying to protect the person who was the subject of the complaint. An assessment of the complaint found no evidence of corrupt conduct by the ICAC. The Inspector determined not to investigate the complaint and in February 2007 advised the complainant accordingly. In March 2007 the Inspector advised the complainant that further written information sent by the complainant had been assessed and did not disclose any evidence that would warrant any investigation of the complaint.
6. In October 2006 a complaint was received by telephone alleging maladministration and impropriety on the part of the ICAC and its officers for failing to investigate a complaint made to it concerning a named government agency. Assessment of the complaint showed there was no evidence of maladministration or impropriety by the ICAC or its officers in relation to the handling of the complaint. The Inspector determined that the complaint would not be investigated and in October 2006 advised the complainant accordingly.
7. In October 2006 a written complaint was received alleging maladministration on the part of the ICAC and its officers for failing to properly assess a complaint concerning alleged corrupt conduct by officers of a named public agency in relation to a funded program. Assessment of the complaint showed there was no evidence to support the allegations made against the ICAC or its officers. The Inspector therefore determined that the complaint would not be investigated and in February 2007 advised the complainant accordingly.
8. In November 2006 a complaint was received by telephone alleging maladministration by the ICAC with respect to a complaint made to it concerning the conduct of a named public officer and alleged corrupt conduct of a named appeals tribunal. The complainant alleged the Commission took irrelevant considerations into account in assessing his complaint and was unreasonable in requiring him to provide evidence that he was not in a position to provide. Assessment of the complaint showed that there was no evidence to support the allegations made against the ICAC or its officers. The Inspector therefore determined that the complaint would not be investigated and in December 2006 advised the complainant accordingly.
9. In November 2006 a complaint was received by telephone alleging maladministration and misconduct against the ICAC in the handling of a complaint made to it concerning a named public authority. Assessment of the complaint showed that there was no evidence to support the

allegations. Following further correspondence from the complainant concerning the Inspector's handling of the complaint, an internal review of the assessment was undertaken. In March 2007 the Inspector advised the complainant that the review had shown that an insignificant factual error had been taken into account during the original assessment of the complaint but this did not affect the substance of the original determination. The Inspector confirmed his determination that the complaint would not be investigated.

10. In November 2006 a complaint was received by telephone alleging maladministration by the ICAC in not considering certain evidence in respect of a complaint made to it concerning alleged corruption by two named public agencies. An assessment of the complaint showed no evidence to support the complainant's allegations. The Inspector determined that the complaint would not be investigated and in December 2006 advised the complainant accordingly.
11. In November 2006 a complaint was received by telephone alleging the ICAC had not considered all the evidence against private developers who had allegedly engaged in corrupt conduct. The Inspector determined that the complaint was not within jurisdiction and in January 2007 advised the complainant accordingly.
12. In December 2006 a written complaint was received alleging maladministration by the ICAC for failing to properly assess evidence provided to it concerning alleged corrupt conduct by a named public authority. An assessment of the complaint showed that there was no evidence to support the complainant's allegations. The Inspector determined that the complaint would not be investigated and in April 2007 advised the complainant accordingly.
13. In December 2006 a written complaint was received alleging that the ICAC had acted corruptly in respect of its management of a complaint made to it. An assessment of the complaint showed that there was no evidence to support the allegations that the ICAC or any its officers had acted corruptly with regards to the management of the complaint. The Inspector determined that the complaint would not be investigated and in February 2007 advised the complainant accordingly.
14. In December 2006 a written complaint was received by a public officer alleging the ICAC had failed to properly investigate his complaint against a named local government council. Assessment of the complaint showed that there was no evidence to support the allegation. The Inspector therefore determined that the complaint would not be investigated and in February 2007 advised the complainant accordingly. Between February and March 2007 the complainant provided further particulars. These particulars did not concern the conduct of the ICAC or its officers. In April 2007 the complainant was advised that the Inspector's decision not to investigate the complaint would stand.

15. In December 2006 a complaint was received in writing via facsimile alleging the ICAC had mishandled a complaint made to it concerning a named government agency and that therefore its decision not to investigate the complaint was unreasonable. The complainant alleged that the ICAC failed to investigate the complaint as it was motivated by bias. Assessment of the complaint showed that there was no evidence to support the complainant's allegations that the ICAC or its officers had acted corruptly or unreasonably in relation to the management of the complaint. The Inspector determined not to investigate the complaint and in February 2007 advised the complainant accordingly.
16. In January 2007 a complaint was received in writing alleging the complainant had been abused by various individuals. The complaint did not raise any issues concerning the conduct of the ICAC or its officers. The Inspector determined that the complaint was not within jurisdiction and therefore could not be dealt with and in February 2007 advised the complainant accordingly.
17. In January 2007 a complaint was received in writing alleging maladministration on the basis that the ICAC was unreasonable in failing to assess the evidence provided by the complainant concerning a named public authority. Assessment of the complaint showed that there was no evidence to support the complainant's allegations. The Inspector therefore determined not to investigate the complaint and in February 2007 advised the complainant accordingly.
18. In January 2007 a complaint was received by telephone alleging impropriety on the part of the ICAC in failing to act on a complaint made to it concerning alleged corrupt conduct by certain members of a named government agency. The complainant also expressed the view that the ICAC should have referred the complaint to another named investigative agency and that its failure to do so was unreasonable. An assessment of the complaint found no evidence to support the complainant's allegations. As the complainant could directly take her complaint to the named investigative agency, the ICAC's lack of action in not referring the complaint was assessed as not constituting inaction of a serious nature that was unreasonable. The Inspector therefore determined not to investigate the complaint and in January 2007 the Inspector advised the complainant accordingly.
19. In April 2007 a written complaint was received concerning the conduct of named officers of a named public agency. As the complaint did not raise any issues concerning the conduct of the ICAC or its officers, the Inspector determined that the complaint was not within jurisdiction and would therefore not be dealt with and in April 2007 advised the complainant accordingly.
20. In April 2007 a complaint was received by email expressing the complainant's dissatisfaction with a decision by a named government agency in respect of a complaint he made to it. There was no complaint against the ICAC or its officers. The Inspector determined that the

complaint was not within jurisdiction and would therefore not be dealt with and in July 2007 advised the complainant accordingly.

21. In April 2007 a complaint was received by email concerning the conduct of a named local government council. The complainant did not raise any issues concerning the conduct of the ICAC or its officers. The complaint was therefore assessed as being not within the Inspector's jurisdiction and would therefore not be dealt with and in June 2007 advised the complainant accordingly.
22. In April 2007 a written complaint was received alleging the ICAC had acted unjustly and unreasonably in declining to investigate a complaint made to it with respect to a named public authority. Furthermore it was alleged that the ICAC had conspired with the named public authority to cover up corruption. Assessment of the complaint showed no evidence of any impropriety or misconduct by the ICAC or its officers. The Inspector therefore determined that the complaint would not be investigated and in May 2007 the complainant was advised accordingly.
23. In May 2007 a complaint was received in writing by way of referral from a member of parliament. The assessment of the complaint found that no issues were raised concerning the conduct of ICAC or any of its officers. The Inspector determined that the complaint was not within jurisdiction and would therefore not be dealt with and in June 2007 advised the referring member of parliament accordingly.
24. In October 2006 a written complaint was received from an anonymous complainant alleging corrupt conduct by officers from a named government agency. The Inspector determined that the complaint was not within jurisdiction and would not be dealt with further.

Complaints referred back to the ICAC

1. In October 2006 a written complaint was received from an anonymous complainant regarding corruption by a named local government council officer. In November 2006 the Inspector referred the complaint to the ICAC as the issues raised within the complaint were more appropriate to its jurisdiction. In February 2007 the ICAC advised that it had considered the allegations and determined that, if proven, the conduct

“...would amount to serious but not systemic corrupt conduct. Accordingly, the ICAC has determined that the matter should not be made the subject of a formal ICAC investigation.”

The Inspector wrote to the Commissioner inquiring whether it was the ICAC's view that corrupt conduct must be both serious and systemic in order to be the subject of a formal investigation. In March 2007 the Commissioner responded in writing as follows:

“As you would be aware, one of the ICAC's principal functions is to investigate 'corrupt conduct' (s 12 of the *Independent*

Commission Against Corruption Act 1988). Section 12A provides that the Commission should, as far as practicable, direct its attention to serious and systemic corrupt conduct. It is not entirely clear whether the use of the conjunctive in this provision is intended to refer to conduct that is both serious and systemic, or whether it refers to conduct that is either. The Commission has taken the latter view.

The effect of these provisions is that ICAC may investigate any matter that may involve corrupt conduct, although in most cases it would do so only where the conduct was either serious or systemic. In some cases, even serious corrupt conduct may not warrant investigation by the ICAC, either because it does not raise systemic issues or because it could be adequately dealt with by another agency. Similarly, systemic corrupt conduct that relates to relatively minor wrongdoing may not warrant the use of the ICAC's investigative resources."

The Commissioner confirmed that the ICAC would not be investigating the complaint.

2. In March 2007 a written complaint was received alleging maladministration by the ICAC in relation to a complaint made to it. The complainant alleged that a named officer of the ICAC failed to properly assess relevant evidence and made factual errors in assessing the complaint. An assessment of the complaint disclosed no evidence of maladministration by the ICAC or the named officer. While the evidence showed that a factual error had been originally relied upon by the ICAC, the factual error had been subsequently corrected during the assessment process. The Inspector therefore determined that the complaint would not be investigated and in June 2007 advised the complainant accordingly. However, in June 2007 the Inspector advised the ICAC of his concern about premature communication of the decision not to investigate the complaint by an ICAC assessment officer prior to a decision being taken by relevant decision-making bodies. In July 2007 the Commissioner advised that no information or decision is conveyed to complainants until a decision has been taken by the ICAC's Assessment Panel and/or by the Commissioner.

Complaints received between 1 July 2006 and 30 June 2007 that are still active

1. In September 2006 a written complaint was received alleging maladministration by the ICAC in relation to a complaint made to it concerning a named local government council. The complainant alleged that the ICAC had been unreasonable in its assessment of key evidence. In January 2007 the complainant advised that he wished to withdraw his complaint as it was being reviewed by the ICAC. In February 2007 the complainant requested that the Inspector now deal with his complaint. As at 30 June 2007 the complaint was being assessed.

2. In November 2006 a written complaint was received alleging maladministration and corrupt conduct by the ICAC in relation to a complaint made to it concerning named public officials. Assessment of the complaint showed that there was no evidence to support the complainant's allegations. The Inspector determined that the complaint should not be investigated and in February 2007 the complainant was advised accordingly. In March 2007 the complainant wrote to the Inspector and requested advice as to an agency or body to whom he could complain about the Inspector. The Crown Solicitor has advised that the Ombudsman does not have jurisdiction to investigate the Inspector's conduct in respect of assessment of complaints. The Inspector is also of the view that there is no other person or agency to whom such a complaint could be made. As at 30 June 2007 the complainant had not yet been provided with a response to his letter of March 2007.
3. In April 2007 a written complaint was received alleging maladministration by a named ICAC officer. The allegations were that the named ICAC officer had engaged in maladministration in his dealings with the complainant. As at 30 June 2007 the complaint was being assessed.
4. In June 2007 a written complaint was received alleging that the ICAC had declined to investigate a complaint made to it because it was improperly motivated by political considerations. As at 30 June 2007 the complaint was being assessed.
5. In June 2007 a complaint was received by telephone alleging maladministration by the ICAC with regard to its conduct in handling a complaint made to it. The complainant alleged that the ICAC had failed to properly assess evidence that he had supplied to it in support of his complaint and failed to meet its obligations under the *Protected Disclosures Act 1994*. As at 30 June 2007 the complaint was being assessed.
6. In April 2007 a complaint was received via telephone alleging maladministration by the ICAC in relation to a complaint made to it concerning a named government agency. As at 30 June 2007 the complaint was being assessed.

Complaints received between 1 July 2006 and 30 June 2007 that were not assessed

1. In October 2006 a member of parliament referred a complaint that he had received from a constituent. In November 2006 an exchange of correspondence between the OIICAC and the complainant clarified that the complaint did not concern the conduct of the ICAC or its officers. The complaint was therefore not assessed.
2. In December 2006 a complaint was received by telephone alleging dissatisfaction with the ICAC's decision with regard to a complaint made to it. The complainant indicated that he would telephone again to speak to the Inspector personally. The complainant did not contact the office again.

3. In May 2007 an email addressed to a named ICAC officer was also sent to the Inspector. The email criticised the ICAC for its decision not to investigate a complaint concerning alleged corrupt conduct by named public agencies. It was not clear, however, from the email as to whether the complainant was lodging a complaint to the Inspector. In June 2007 the Inspector sought clarification on these issues from the complainant.
4. In June 2007 a complaint was received by telephone alleging impropriety and an unreasonable invasion of privacy by the ICAC and its officers in the handling of her complaint to it. The complainant also alleged that the ICAC had failed to provide her with any written advice concerning its management of her complaint. In late June 2007 the complainant advised that she wished to withdraw her complaint against the ICAC and its officers. In June 2007 the Inspector wrote to the complainant confirming the withdrawal of the complaint.
5. In June 2007 the ICAC advised the Inspector that it was dealing with a complaint regarding one of its recruitment processes. Subsequently in June 2007 the ICAC advised the Inspector the outcome of its determination of the complaint. In late June 2007 the complainant wrote to the Inspector. The letter appeared to assume that the Inspector was an ICAC officer. The complainant expressed dissatisfaction with the ICAC's determination and advised that he would now refer the complaint to another complaint handling agency.

GENERAL ENQUIRIES AND OTHER CORRESPONDENCE

During the reporting period 12 enquiries were received regarding the Inspector's role and functions. In all cases information was provided about the Inspector's role and functions.

In November 2006 an email addressed to members of parliament was received at the Inspector's email address. As the conduct alleged in the email was not relevant to the Inspector's jurisdiction and was not addressed to the Inspector, no action was taken in respect of the email.

ASSESSMENT OF PROCEDURES (S 57B(1)(D))

This function has been carried out as part of the Inspector's auditing function. During the audit of the ICAC's compliance with s 12A of the ICAC Act, the ICAC's revised assessment procedures were provided to the OIICAC. Although not formally reviewed pursuant to s 57B(1)(d) these procedures do not appear to raise any issues of legality or propriety.



New South Wales

**Office of the Inspector of the
Independent Commission Against Corruption**

GPO Box 5341
SYDNEY NSW 2001

Tel: (02) 8374 5381
Fax: (02) 8374 5382

Email: InspectorICAC@oiicac.nsw.gov.au